

GENERAL ORDERS, }

No. 32. }

WAR DEPARTMENT,

ADJUTANT GENERAL'S OFFICE,

Washington, February 4, 1863.

At a General Court Martial, which convened at the Headquarters of the 19th Massachusetts Volunteers, near Falmouth, Virginia, on the 5th day of January, 1863, pursuant to General Orders, No. 2, dated Headquarters 2d Division, 2d Corps, Army of the Potomac, near Falmouth, Virginia, January 4, 1863, and of which Lieutenant Colonel A. F. DEVEREUX, 19th Massachusetts Volunteers, was President, was arraigned and tried—

Surgeon *John Malone*, 71st Pennsylvania Volunteers.

CHARGE.—“Violation of the 39th Article of War.”

Specification 1st—“In this; that he, the said *John Malone*, Surgeon of the 71st Regiment Pennsylvania Volunteers, did make, or cause to be made, accounts, under date of October* and November, 1862, for the sum of nineteen dollars and fifty-nine cents, (\$19.59,) and received said sum from the Regimental Hospital fund account, on or about December 8, 1862, said account for \$19.59 being in part or entirely a fraud.”

Specification 2d—“In this; that he, the said *John Malone*, Surgeon of the 71st Regiment Pennsylvania Volunteers, did make, or cause to be made, accounts, under date of December, 1862, for the sum of forty-two [dollars] and eighty cents, (\$42.80,) and received said sum from the Regimental Hospital fund account, on or about December 31, 1862, said account for the \$42.80 being in part or entirely a fraud.”

Specification 3d—“In this; that he, the said *John Malone*, Surgeon of the 71st Regiment Pennsylvania Volunteers, did make, or cause to be made, accounts, under date of 1862, for the sum of seventy-four dollars and sixty cents, (\$74.60,) and received said sum from the Regimental Hospital fund account, on or about December 31, 1862, said account for \$74.60 being in part or entirely a fraud. All this at camp near Falmouth, Virginia.”

To which charge and specifications the accused pleaded, “Not Guilty.”

FINDING.

The Court, after mature deliberation upon the evidence adduced, finds the accused as follows:

Of the 1st *Specification*, "Guilty."

Of the 2d *Specification*, "Guilty."

Of the 3d *Specification*, "Guilty."

Of the CHARGE, "Not Guilty, but Guilty of Crime under provisions of 39th Article of War."

SENTENCE.

And the Court does therefore sentence him, the said *John Malone*, Surgeon of the 71st Pennsylvania Volunteers, "*To be cashiered, and refund to the United States the sum of \$95.24.*"

II..The record of the proceedings in the foregoing case is fatally defective. It does not show either that the Judge Advocate was sworn, or that the accused was, previously to the trial, asked whether he had any objection to any member of the Court. (See paragraph 891, General Regulations.) While for this cause the sentence of the Court must be held to be inoperative, the offences of which the accused was proved to be guilty would justify and call for his dismissal. Surgeon *John Malone*, 71st Pennsylvania Volunteers, is accordingly, by direction of the President of the United States, dismissed the service.

BY ORDER OF THE SECRETARY OF WAR:

L. THOMAS,

Adjutant General.

OFFICIAL:

Assistant Adjutant General.